

SENATE BILL 29
EMERGENCY BILL

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2004 Regular Session
4r0306
CF 4r0305

(PRE-FILED)

By: **Senator Middleton**

Requested: July 8, 2003

Introduced and read first time: January 14, 2004

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: March 11, 2004

CHAPTER _____

1 AN ACT concerning

2 **Nonprofit Health Service Plans - Compensation of Officers and Executives -**
3 **Authority of Insurance Commissioner**

4 FOR the purpose of making changes to conform certain provisions of the Insurance
5 Article relating to nonprofit health service plans to the Order and Consent
6 Judgment rendered by the U.S. District Court for the District of Maryland in the
7 case of State of Maryland v. Blue Cross & Blue Shield Association and CareFirst,
8 Inc.; altering the authority of the Maryland Insurance Commissioner for the
9 review and approval of certain compensation guidelines for officers and
10 executives of certain nonprofit health service plans; requiring the board of
11 directors of certain nonprofit health service plans to provide a copy of certain
12 compensation guidelines to the Commissioner on or before a certain date;
13 providing for the application of this Act; making this Act an emergency measure;
14 and generally relating to the authority of the Maryland Insurance
15 Commissioner over nonprofit health service plans.

16 BY repealing and reenacting, with amendments,
17 Article - Insurance
18 Section 14-139(d) and (e)
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2003 Supplement)

1 Preamble

2 WHEREAS, Chapters 356 and 357, Acts of 2003 (the "Act"), reformed certain
3 statutory requirements for nonprofit health service plans issued a certificate of
4 authority in the State; and

5 WHEREAS, On May 21, 2003, the Blue Cross and Blue Shield Association (the
6 "Association") filed suit against CareFirst, Inc. ("CareFirst") in the U.S. District
7 Court for the Northern District of Illinois to terminate CareFirst's continued use of
8 the Blue Cross and Blue Shield trademark and name ("Blue Marks"); and

9 WHEREAS, On May 22, 2003, CareFirst filed suit against the State of
10 Maryland in the U.S. District Court for the District of Maryland challenging the
11 constitutionality of the Act; and

12 WHEREAS, The State of Maryland filed suit against the Association and
13 CareFirst challenging the Association's termination of CareFirst's use of the Blue
14 Marks; and

15 WHEREAS, The State, the Association, and CareFirst sought to resolve the
16 issues concerning CareFirst's right to use the Blue Marks to ensure CareFirst
17 subscribers uninterrupted access to Blue Cross and Blue Shield branded products and
18 services while also protecting the public interest; and

19 WHEREAS, On June 6, 2003, the U.S. District Court for the District of
20 Maryland issued an Order and Consent Judgment (the "Order") resolving the issues
21 among the State, the Association, and CareFirst; and

22 WHEREAS, The Order altered certain provisions of the Act relating to the
23 authority of the Maryland Insurance Commissioner over compensation guidelines for
24 officers and executives of nonprofit health service plans; and

25 WHEREAS, It is desirable to conform the statute to the Order; now, therefore,

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article - Insurance**

29 14-139.

30 (d) (1) The compensation committee of the board shall:

31 (i) identify nonprofit health service plans in the United States that
32 are similar in size and scope to the nonprofit health service plan managed by the
33 board; and

34 (ii) develop proposed guidelines, for approval by the board, for
35 compensation, including salary, bonuses, and perquisites, of all officers and

1 executives that is reasonable in comparison to compensation for officers and
2 executives of similar nonprofit health service plans.

3 (2) [On or before June 1, 2004, the board shall submit the proposed
4 guidelines developed under paragraph (1)(ii) of this subsection to the Commissioner
5 for review and approval.

6 (3) (i) The Commissioner shall review the proposed guidelines and,
7 within 60 days, approve or disapprove the proposed guidelines.

8 (ii) Failure of the Commissioner to act on the proposed guidelines
9 within 60 days shall constitute approval.

10 (4) If the Commissioner disapproves the proposed guidelines, the board
11 shall revise and submit new proposed guidelines that meet the Commissioner's
12 approval.

13 (5) The board shall review the proposed guidelines at least annually
14 [and, if the board finds that changes are needed, the board shall submit the changes
15 to the Commissioner in accordance with paragraphs (1) through (3) of this
16 subsection].

17 [(6)] (3) The board shall:

18 (i) provide a copy of the approved guidelines:

19 1. to each officer and executive of the nonprofit health
20 service plan; [and]

21 2. to each candidate for an officer or executive position with
22 the nonprofit health service plan; and

23 3. ON OR BEFORE SEPTEMBER 1, 2004, AND ANNUALLY
24 THEREAFTER, TO THE COMMISSIONER; AND

25 (ii) adhere to the approved guidelines in compensating the officers
26 and executives of the nonprofit health service plan.

27 [(7)] (4) On an annual basis, the Commissioner shall review the
28 compensation paid by the nonprofit health service plan to each officer and executive.

29 [(8)] (5) If the Commissioner finds that the compensation exceeds the
30 amount authorized under the approved guidelines, the Commissioner shall issue an
31 order prohibiting payment of the excess amount.

32 (e) The approval or receipt of remuneration in violation of an order issued
33 under subsection [(d)(8)] (D)(5) of this section is a violation of § 14-115(c) of this
34 subtitle and shall be considered an unsound or unsafe business practice under §
35 14-116 of this subtitle.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply retroactively and shall be applied to and interpreted to affect the
3 authority of the Maryland Insurance Commissioner over compensation guidelines for
4 officers and executives of nonprofit health service plans on or after June 6, 2003.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an
6 emergency measure, is necessary for the immediate preservation of the public health
7 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
8 members elected to each of the two Houses of the General Assembly, and shall take
9 effect from the date it is enacted.